

On September 1, 2005, Darby & Darby, P.C. check no. 9598 for \$1,400 to cover the issue and publication fees in this case was drawn; its issue fee transmittal form was stamped with an express mail certificate (for a packet to be sent to the USPTO bearing USPS label no. EV691012719 US), dated and signed; and, the return postcard was signed - all by Dwight B. Peck, a docketing clerk with the Darby firm. Copies of these documents are attached hereto as Exhibit B. A declaration by Dwight B. Peck verifying his personal execution of the duties involved is attached hereto as Exhibit E.

Further, following preparation of such documents, and in accordance with the Darby firm's docketing procedures, Mr. Peck personally placed into the USPS Express Mail packet EV691012719 US the original documents relating to the present application that are reproduced in the attached exhibits and listed them in the log book maintained by the firm for that purpose. See the attached copy of the September 1, 2005 page from that log attached hereto as Exhibit C.

Copies of USPS Express Mail label no. EV691012719US, and a May 9, 2006 USPS Track and Confirm report --- **which shows that the packet bearing such label was actually received by the USPS, but it has no record of and can provide no details regarding, its delivery to the USPTO---** are attached hereto as Exhibit D.

Since applicants complied with all governing USPTO rules and regulations, the abandonment in this case arose through no part or error by any of them or their counsel, and the issue and publication fees -- after being duly and timely submitted to the USPTO -- have been acknowledged by the USPS to have been lost by it, it is respectfully submitted that the April 18, 2006 Notice of Abandonment should be withdrawn and the application should be returned to the issue path

Finally, along with Mr. Peck's verified statement in support of the present petition (Exhibit E), Darby & Darby, P.C. check #11844 for \$1,400 is enclosed to replace its check #9598 which, upon receipt of the April 18, 2006 Notice of Abandonment (Exhibit A), was put under a May 3, 2006 order to stop payment consonant with prudent business practice and the Darby firm's policies.

The Commissioner is authorized to charge any deficiency, or credit any excess in, the accompanying fee to Deposit Account No. 04-0100.

- Dated: May 10, 2006

Respectfully submitted,

By Walt Thomas Zielinski
Walt Thomas Zielinski

Registration No.: 18,902
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(212) 527-7700
(212) 753-6237 (Fax)
Attorneys/Agents For Applicant



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

E.J. Ellis

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/218,761	12/22/1998	DIRK NEUBAUER	2338/OE966	2666

7590
HENRY STERNBERG
DARBY & DARBY
805 THIRD AVENUE
NEW YORK, NY 10022

04/18/2006

Petition to Revive

DUE: May 18, 2006

Docketed on 4/26/06 by LLS for

Docketed without file ☐

Attorney [Signature]

EXAMINER	
LEWIS, TISHA D	
ART UNIT	PAPER NUMBER
3681	

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment

Application No.

09/218,761

Examiner

LEWIS

Applicant(s)

NEUBAUER

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☒ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

slk

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



Return of this card properly stamped, will acknowledge receipt
of: Transmittal of Issue Fee. Check No. 9598 For \$1400.00

Applicant : Dirk Neubauer
Serial No. : 09/218,716
Filed: : 12/22/98
For : GEARBOX

Attorney : Edward J. Ellis
File No. : 03193/000E966-US0

Mailed : 9/1/05 Mailer: BP

EV 691012719 - US

DARBY & DARBY P.C. PATENT OFFICE ACCOUNT 805 THIRD AVENUE NEW YORK, NY 10022		1-8852 210 43348074	9598
COMMISSIONER OF PATENTS & TRADEMARKS		DATE	<u>9-1-05</u>
PAY TO THE ORDER OF		\$ <u>1,400.00</u>	
<u>One Thousand four hundred</u>		DOLLARS	
citibank CITIBANK, N.A. BR. #852 153 EAST 53RD STREET NEW YORK, NY 10043		The Citigroup Private Bank	
MEMO <u>218,761/000E966</u>		<u>Gabriella V. Karaszi</u>	
⑆021000089⑆ 43348074⑆		9598	

SEPTEMBER

1

THURSDAY

2005 244th day - 121 days follow

BEST AVAILABLE COPY

EV691012696US

691012696-AF

Subramoniam 334,675 Amdt

PMZ 03108 000M438

Verizon 074,586 BCE \$790

TB 03356 000K043

Verizon 074,585 BCE \$790

TB 03356 000K222

Hirano 906,359 BCE, Amdt. \$790

ATK 09634 000L255

EV691012705US

691012705-MP

Davies 046,223 NTC to INcomplete Reply

JAD 00885 0202462

Per Nonsigning INV. CFR 1.47 \$130

Lundbeck 686,228 Compltn, sur + \$170 A.D.S.

PMZ 05432 0202902

Yahoo 125,809 Reg CFR

FB 08226 1201265US1

Buckeye 192,670 Reg CFR

FB 01313 1201674US2

G/b 531,097 Resp. copy of 8/4 Submission

SPL 06727 0201248

EV691012719US

691012719-IF

Forhealth 728,363 Issue fee + pub \$1000

ETE 03946 100M242US4

HFT 218,761 Issue fee \$1400

ETE 03193 000E966

EV691012722US

691012722-PAT

Lundbeck A.I.V. spec. A.D.S. dec. Pre/ Amdt. IDS SR/08 ISR \$1460

MB 05432 100M507US1

Sumitomo spec. A.D.S. dec. (8) dwgs. Pre/ Amdt. \$1590

(1) Rep/ shd dwg. Prio Doc. IDS. (2) Refs. Assign

MLC 20239 0202950

EV691012736US

691012736-PCR

Madarex Reg (6) shd. spec. dwg \$2098 STM7. Seq list. 215K

FB 04280 2201837W0

Shelston 78/263,499 Amdt. to basis of Appln

ATB 20293 300K669



Date: 05/09/2006

kim youmans:

In response to your request dated 05/09/2006, we regret to inform you that we were unable to locate any delivery information in our records regarding your item number EV69 1012 719U S.

If you require additional assistance, please take this receipt to your local Post Office or postal representative.

Sincerely,

United States Postal Service

[Home](#) | [Help](#)[Track & Confirm](#)

Track & Confirm

Proof of Delivery Confirmation

We regret there is no record of delivery for your item. This will be indicated in the letter provided.

Date of Request: 05/09/2006
Label/Receipt Number: EV69 1012 719U S
Proof of Delivery Type: Email
First Name: kim
Last Name: youmans
Email: kyoumans@darbylaw.com

Track & Confirm

Enter Label/Receipt Number.

[Return to USPS.com Home >](#)



POSTAL INSPECTORS
Preserving the Trust

[site map](#)

[contact us](#) [government services](#) [jobs](#) [National & Premier Accounts](#)
Copyright © 1999-2004 USPS. All Rights Reserved. [Terms of Use](#) [Privacy Policy](#)

[Home](#) | [Help](#)[Track & Confirm](#)

Track & Confirm

Search Results

Label/Receipt Number: **EV69 1012 719U S**
Status: **Enroute**

Your item was processed and left our DULLES, VA 20102 facility on September 02, 2005. No further information is available for this item.

Information on this item has been restored from offline files and will be available online for 30 days from 05/09/2006.

[Additional Details >](#)[Return to USPS.com Home >](#)

Track & Confirm

Enter Label/Receipt Number.

Notification Options

Proof of Delivery

Verify who signed for your item by email, fax, or mail. [Go >](#)



POSTAL INSPECTORS
Preserving the Trust

[site map](#)[contact us](#)[government services](#)[jobs](#)[National & Premier Accounts](#)

Copyright © 1999-2004 USPS. All Rights Reserved. [Terms of Use](#) [Privacy Policy](#)

BEST AVAILABLE COPY

Customer Copy
Label 11-F, April 200



EV 691012719 US



UNITED STATES POSTAL SERVICE®

Post Office to Addressee

ORIGIN (POSTAL SERVICE USE ONLY)				DELIVERY (POSTAL USE ONLY)			
PO ZIP Code 10022	Day of Delivery <input type="checkbox"/> Next <input checked="" type="checkbox"/> 2nd <input type="checkbox"/> 2nd Del. Day	Postage \$ 13.65		Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature	
Date Accepted 9-1-05	Scheduled Date of Delivery Month 9 Day 3	Return Receipt Fee \$		Mo. Day	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature	
Mo. Day Year	Scheduled Time of Delivery <input checked="" type="checkbox"/> Noon <input type="checkbox"/> 3 PM	COD Fee \$	Insurance Fee \$	Delivery Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature	
Time Accepted 8:39 AM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Total Postage & Fees \$ 13.65		Mo. Day	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature	
Flat Rate <input type="checkbox"/> or Weight lbs. 2 ozs.	Int'l Alpha Country Code	Acceptance Emp. Initials TD		<input type="checkbox"/> NO DELIVERY (Weekend <input type="checkbox"/> Holiday <input type="checkbox"/> <small>WAIVER OF SIGNATURE (Domestic Mail Only) Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.</small>			
CUSTOMER USE ONLY				Customer Signature			

CUSTOMER USE ONLY		FEDERAL AGENCY ACCT. NO. OR POSTAL SERVICE ACCT. NO.	
METHOD OF PAYMENT: Express Mail Corporate Acct. No.			
FROM: (PLEASE PRINT) DARBY & DARBY PC 805 3RD AVE FL 26 NEW YORK NY 10022-7557	PHONE: 212 527 7774	TO: (PLEASE PRINT) MAIL STOP COMMISSIONER FOR PATENTS PO BOX 1450 ALEXANDRIA VA 22313-1450	PHONE: ()

FOR PICKUP OR TRACKING: Visit www.usps.com or Call 1-800-222-1811





Docket No.: 03193/000E966-US0
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In re Patent Application of:
Dirk Neibauer et al.**

Application No.: 09/218,761

Confirmation No.: 2666

Filed: December 22, 1998

Art Unit: 3681

For: TRANSMISSION

Examiner: Tisha D. Lewis

Attn: Assistant Deputy Commissioner for Patents

VERIFIED STATEMENT IN SUPPORT OF PETITION
PURSUANT TO 37 CFR § 1.181(a) REQUESTING
WITHDRAWAL OF THE HOLDING OF ABANDONMENT

Sir:

Dwight B. Peck declares that:


1. I am over 21 years of age and I am a citizen of the United States.
2. I am docketing clerk for, and have for more than eight (8) years been employed by, Darby & Darby, P.C., 805 Third Avenue, New York, New York 10022, attorneys for the above-identified applicant.
3. I have read the accompanying Petition Pursuant 37 CFR § 1.181(a) Requesting Withdrawal Of The Holding Of Abandonment and all of the exhibits attached thereto and understand that this verified statement constitutes Exhibit E thereof.
4. I personally signed the stamped certificates of mailing that appear in such exhibits, made out the check reproduced in such exhibits; signed or initialed the return postcard that is

reproduced in such exhibits; placed such documents in a packet bearing USPS label no.

EV691012719US; and, I oversaw the deposit of all of the original documents with the United States Postal Service (USPS), all on September 1, 2005, with sufficient postage as Express Mail.

5. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

May 10, 2006


Dwight B. Peck

DARBY & DARBY P.C.
805 Third Avenue
New York, New York 10022
212-527-7700